THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No.26130 of 1997

Dated: 21.3.2007

Between:

Khaja and others.

… Petitioners

AND

Acharya N.G.Ranga Agricultural University,
Rajendernagar, Hyderabad rep by
Registrar.
And others.

… Respondents

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No.26130 of 1997

ORDER:

This writ petition is filed for a writ of mandamus to declare the proceedings dated 19.3.1997 issued by the first respondent – University as illegal and arbitrary.

Shorn of unnecessary details, the facts in brief are that the petitioners joined the first respondent – University as NMR workers on different dates from 1979 to 1996. The petitioners' grievance is that in the proceedings dated 1.8.1996, the third respondent is shown as the senior most person working in the first respondent university. Their contention is that while first petitioner was working from 16.5.1979, the second petitioner was working from 15.12.1979, the third petitioner was working from 3.3.1979 and the fourth petitioner was working from 4.4.1981, there is no justification for showing the third respondent as the senior most, since she was working only from 1.8.1986. The proceedings dated 19.3.1997 whereunder certain clarifications regarding the status of respondent No.3 were given and direction was issued to permit third respondent as attender till the regular vacancy of attender arises, is questioned in this writ petition.

In the counter affidavit filed on behalf of respondents 1 and

2, Dr.D.B.R.Reddy, Senior Scientist and Head, Agricultural Research Station, Amberpet averred that while the petitioners 1 to 5 were working as agricultural workers under Group-III category of Class-IV employees even before the third respondent was employed, the third respondent along with another attender was appointed to Group-I category of Class-IV employees vide proceedings dated 30.7.1986 from the casual labourers as the post of attender fell vacant during that period. It is further stated in the counter affidavit that Smt.Tahera Bee filed W.P.No.5640 of 1988 and the said writ petition appeared to have been disposed of with a direction that Smt.Tahera Bee be appointed to any of the posts in Group-I category of Class-IV services at least with effect from the date on which the third respondent herein was appointed to the Group-I category services and that at the same time the third respondent's appointment as attender shall not be disturbed. In order to comply with the said order of this Court it is submitted in the counter affidavit that the University issued proceedings on 10.3.1995 whereby Smt.Tahera Bee was appointed as attender and a supernumerary post of attender was created for the third respondent. With a view to regularize the services of the third respondent, proceedings dated 1.8.1996 were issued adjusting respondent No.3 as agricultural workman with effect from 1.8.1996. However on her representation the proceedings dated 19.3.1997 were issued continuing the third respondent in the supernumerary post till the regular post of attender arises; that the third respondent was adjusted against regular post of attender through office proceedings dated 25.3.1997. The respondents 1

and 2 thus justified their action in appointing third respondent as attender adjusting her vacancy against regular post of attender through subsequent proceedings dated 25.3.1997.

Heard Sri A.K.Jayaprakash Rao, learned counsel for the petitioners. None appeared for respondents.

From the entire facts borne out by the record and as mentioned herein above it appears that the petitioners had been working as NMRs., even before the third respondent was appointed as attender in the first instance by proceedings dated 30.7.1986. It is further clear from the facts that by virtue of the appointment of third respondent as attender through proceedings dated 30.7.1986, she had been working as attender since 1.8.1986, while the petitioners continue to work as workman on NMR basis. It is not in dispute that though the third respondent was appointed as attender, the petitioners never questioned the said appointment order. As a result of certain orders passed by this Court in W.P.No.5640 of 1988, copy of which is not filed by either of the parties, the University had to make certain adjustments by issuing the proceedings dated 10.3.1995, 1.8.1996 and 23.3.1997. From the contents of the counter affidavit it appears that while third respondent's appointment was questioned by Smt.Tahera Bee she appeared to have partly succeeded in her challenge which led to the first respondent creating the supernumerary post in order not to disturb the third respondent from the post of attender to which she was appointed as long back as 30.7.1986. In this factual scenario, the petitioners evidently got agitated at the proceedings dated 1.8.1996 in which third

respondent was shown as the senior most worker and the subsequent proceedings dated 19.3.1997 wherein it was directed that the third respondent shall be continued in the supernumerary post. No where in the writ petition the petitioners explained as to why they have not questioned the order of third respondent dated 30.7.1986 under which the third respondent was appointed as attender, ignoring their claims as seniors to respondent No.3. Having allowed the third respondent to work as attender all through till 1997, they filed the present writ petition. There is not even an attempt made by the petitioners to explain their conduct in not questioning the proceedings dated J/403/86 dated 30.7.1986 under which respondent No.3 was appointed for the first time as attender. The proceedings which are now challenged in the present writ petition appears to be a culmination of the orders passed by this Court in W.P.No.5640 of 1988 and they are purely consequential in nature. Unless the petitioners question the very initial order of the University in appointing the third respondent as attender, challenge to the subsequent consequential proceedings cannot succeed. From the facts of this case it appears that the petitioners have acquiesced in questioning the appointment of third respondent who evidently appears to be the junior to the petitioners, as attender and therefore, they cannot succeed in this writ petition.

For the foregoing reasons, the writ petition is dismissed.

C.V.NAGARJUNA REDDY,J

Dt:21.3.2007
Mdaa.